

Amendments to the Drawings:

The drawing sheets attached in connection with the above-identified application containing Figures 3(A) to 3(B), 5(A) to 5(B), and 6(A) to 6(D) are being presented as sheets to be substituted for the previously submitted drawing sheets. Figures 3(B) and 6(A) to 6(D) have been amended. Appended to this amendment is an annotated copy of the previous drawing sheet, which has been marked to show changes presented in the replacement sheet of the drawing.

REMARKS

The Office Action has been reviewed and the Examiner's comments carefully considered. Claims 2, 4-7, 10, and 13 are amended. No claims are cancelled or added. Thus, claims 1-13 remain pending and are submitted for reconsideration.

Objection to the Drawings

The drawings have been objected to because the reference characters "C-C" and "D-D" have been used to designate cross-sections in FIGS. 2(B), 3(B), and 6(B) and cross-section designations can only be done for one picture at a time. Amended drawings have been submitted in which the cross-section designations in FIGS. 3(B) and 6(B) have been changed. Annotated drawings have also been submitted showing the changes.

Rejections based on Aoki

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,323,444 ("Aoki"). The rejection should be withdrawn because Aoki fails to disclose, teach, or suggest the claimed invention.

Claim 1 recites the feature "wherein the device is configured so that the weight of the seat is applied between the at least one support point and the sensor point." As pointed out in the Office Action, Aoki does not disclose a device configured so that the weight of the seat is applied between the at least one support point and the sensor point. (Paragraph 5 of the Office Action.) It is then asserted that:

[i]t would have been obvious...to switch the position at which the weight of the seat acts, from one pin to the other. Such a change would be a mere rearrangement of parts.

The suggest or motivation for do so would be to change to apply (sic) a different force at the sensor position. This would allow the invention to adjust the force applied at the sensor position to be within an ideal range.

It is respectfully submitted that this is an improper basis of rejection. The basis of rejection is grounded in the use of case law for providing support for an obviousness rejection. MPEP § 2144.04 specifically provides two cases for supporting an obviousness rejection based on the mere rearrangement of parts. MPEP § 2144.04 cites:

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.); *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice.).

However, the MPEP § 2144.04 also clearly states:

As discussed in MPEP § 2144, if the facts in a prior legal decision are sufficiently similar to those in an application under examination, the examiner may use the rationale used by the court....If the applicant has demonstrated the criticality of a specific limitation, it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection.

The facts of this application are not similar to either *In re Japikse* or *In re Kuhle* because, in those cases, the particular rearrangement of parts would not have changed the operation of the device. In the present application, the proposed rearrangement of Aoki would change the operation of the device since the rearrangement would alter the bending motion of the resilient arm and the weight measurement is based on this bending motion of the arm. This is not a non-trivial change that has no bearing on the operation of the sensor but changes the fundamental mechanism in which the sensing is based. Thus, the proposed rearrangement of Aoki is not similar to changing the position of a starting switch as in *In re Japikse* or changing the placement of a contact as in *In re Kuhle*. Because the present rejection is not similar to the case law in the MPEP, the rejection, which is based solely that case law, is inappropriate.

In view of the fact that it is inappropriate to solely rely on the case law to support the obviousness rejection, it is recognized in the MPEP § 2144.04 that:

“The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims...is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of appellant's specification, to make the necessary changes in the reference device.” *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

In the Office Action, there is no reference to the prior art for motivation or reason to modify the device of Aoki. The only motivation that is provided in the Office Action is that changing the position of the application of force would cause a change in the application of

force at the sensor position so that the force could be within an ideal range at the sensor position. This suggestion is not found in any of the cited prior art and it is inaccurate since the movement of the application of force to a point between the support point and the sensor point would alter the entire bending motion of the resilient arm (as discussed above) and not merely change the amount of force applied at the sensor point.

Because the reliance on case law for supporting the obviousness rejection is inappropriate, there is no teaching from the prior art of the application of force being between the supporting point and the sensor point, and there is no reason or motivation from the prior art to move the application of force to a point between the supporting point and the sensor point, claim 1 is not rendered unpatentable over the teachings of Aoki.

Dependent claims 2-6 depend from claim 1 and are allowable therewith for at least the reasons set forth above without regard to the further patentable limitations contained therein.

Claim 7 recites the limitation “the pin bracket is located between the base pin and the load sensor.” As mentioned in the Office Action, Aoki does not teach this feature. (Paragraph 11 of the Office Action.) The Office Actions states that moving the pin bracket is a mere arrangement of parts and the suggestion or motivation to change its location would be to adjust the force applied to the sensor position so that it can be within an ideal range.

As previously mentioned, the reliance solely on case law for supporting an obviousness rejection is inappropriate. The cases cited by the MPEP are not similar to the present application since the movement of the pin bracket changes the operation of the device, which is inconsistent with the case law provided in the MPEP supporting the rationale for a mere arrangement of parts.

In addition, there has been no motivation or suggestion from the prior art to move the pin bracket. As set forth above, the proposed motivation for moving the application of force is inaccurate.

Because the application of case law for supporting the obviousness rejection is inappropriate, there is no teaching from the prior art of the pin bracket being between the supporting point and the sensor point, and there is no reason or motivation from the prior art to move the pin bracket to a point between the supporting point and the sensor point, claim 7 is not rendered unpatentable over the teachings of Aoki.

Dependent claims 8-13 depend from claim 7 and are allowable therewith for at least the reasons set forth above without regard to the further patentable limitations contained therein.

Reconsideration and withdrawal of the rejection based on 1-13 is respectfully requested.

Conclusion

The present application is now believed to be in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By


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"SEAT LOAD MEASURING APPARATUS"

S.N. 10/822,706

Atty. Dkt No. 086142/0629

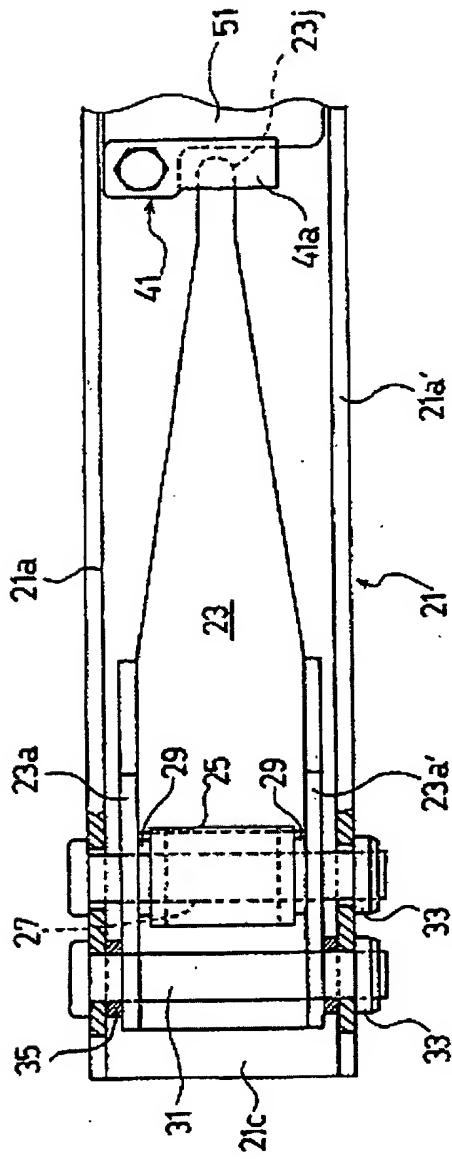


Fig. 3(A)

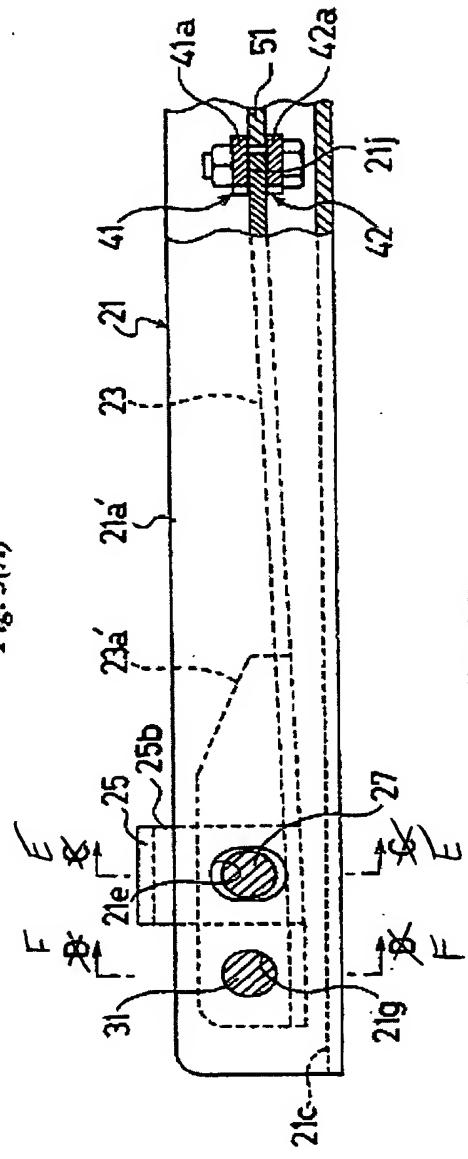
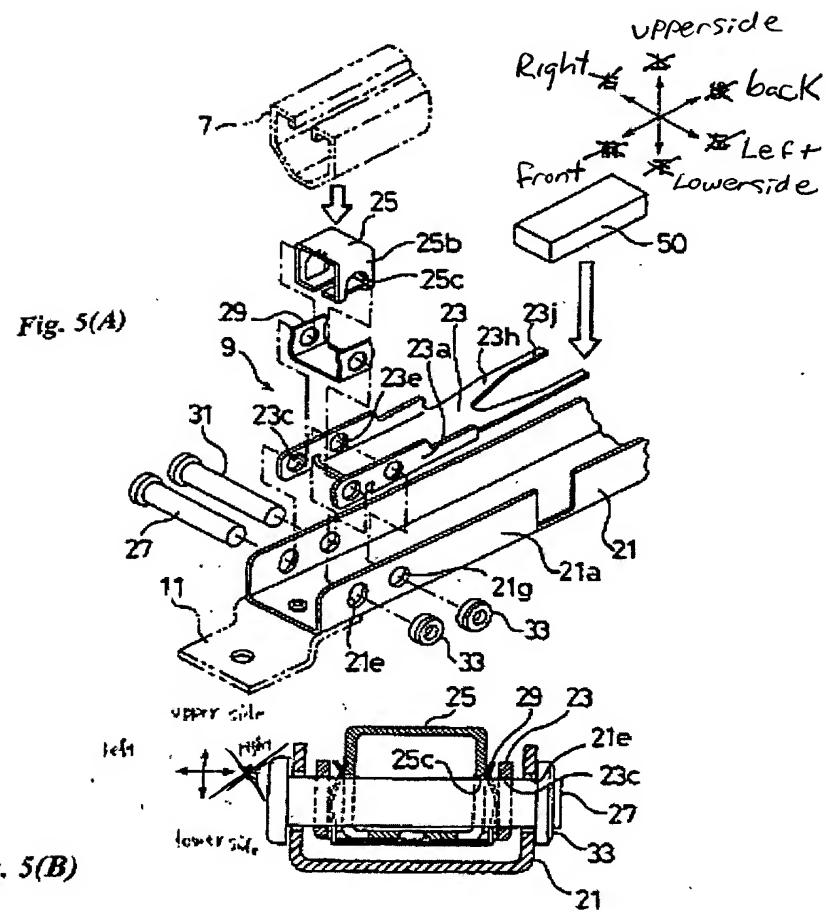


Fig. 3(B)

"SEAT LOAD MEASURING APPARATUS"
S.N. 10/822,706
Atty. Dkt No. 086142/0629



"SEAT LOAD MEASURING APPARATUS"

S.N. 10/822,706

Atty. Dkt No. 086142/0629

Fig. 6(A)

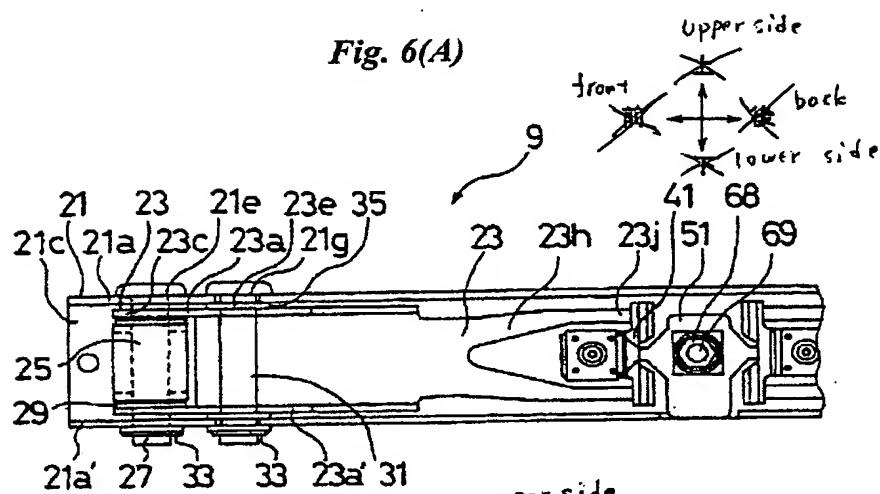


Fig. 6(B)

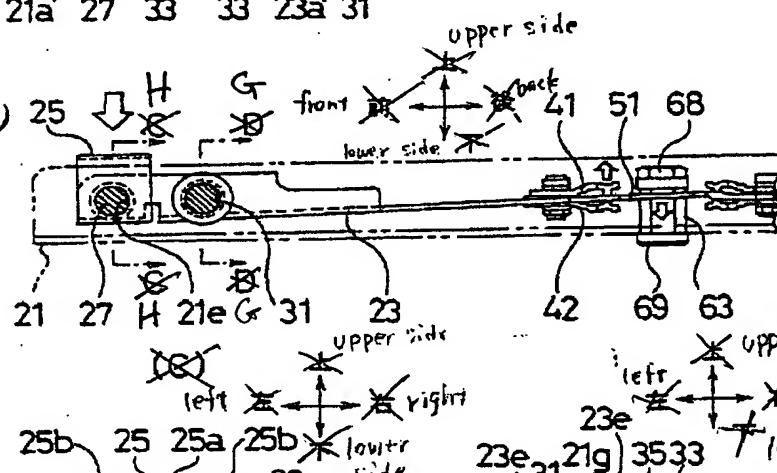


Fig. 6(C)

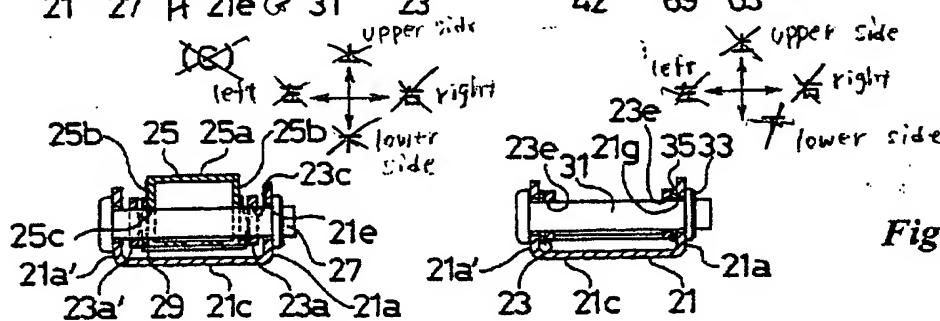


Fig. 6(D)